

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 263/1995

New Delhi this the 11th day of August, 1999.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI N. SAHU, MEMBER (A)

Const. Har Parshad No.7951/DAP
S/O Kundan Lal,
R/O House No.301, Bagh Kare Khan,
P.O. Kishan Ganj,
Delhi-110007

... Applicant

(By Shri Shankar Raju, Advocate)

-Versus-

1. Union of India through
Addl. Commissioner of Police (AP&T),
PHQ, IP Estate,
New Delhi-110002.

2. Dy. Commissioner of Police,
VI Bn. DAP, Delhi,
Model Town,
Delhi.

... Respondents

(By SI Bishan Sarup, Deptt. Representative)

O R D E R (ORAL)

Shri Justice K. M. Agarwal :

By this O.A., the applicant has challenged the order of dismissal passed by the disciplinary authority and affirmed in appeal by the disciplinary authority.

2. Briefly stated, the applicant was a Constable in Delhi Police. On account of his unauthorised absence from duty on four occasions during the year 1992, he was chargesheeted and after due enquiry found guilty of the misconduct alleged against him. Accordingly the impugned order of dismissal from service was passed against him by the disciplinary authority and affirmed in appeal by the

Jon

(a)

- 2 -

appellate authority. Being aggrieved, this O.A. has been filed for the said reliefs.

3. The learned counsel for the applicant drew our attention to the order passed by the disciplinary authority on 31.8.1992 to submit that the unauthorised absence of the applicant was regularised by directing the period of his absence to be treated as leave without pay and the period of suspension from 30.4.1992 to the date of issue of the order to be treated as not spent on duty. Accordingly it was submitted that after the period of unauthorised absence was treated as period spent on leave without pay, the alleged misconduct would be deemed to have been condoned by the respondents and, therefore, on that basis his services could not be terminated in the manner done by the respondents.

4. The departmental representative appearing for the respondents could not controvert the aforesaid arguments of the learned counsel for the applicant.

5. After perusing the record, we are of the view that the learned counsel for the applicant is right in contending that while imposing the penalty of dismissal from service, the competent authority had also condoned the period of unauthorised absence of the applicant. Accordingly, after condonation of the alleged misconduct, the applicant could not be punished or dismissed from service. He is, therefore, entitled to reinstatement but without any pay and

Jm

16

- 3 -

allowances for the period of his absence from duty and for the period between the date of the impugned order and his reinstatement.

6. In the result, this O.A. succeeds and it is hereby allowed. The impugned order of dismissal from service as also the appellate order confirming the same is hereby set aside. The respondents are directed to reinstate the applicant in service within a period of one month from the date of receipt of a copy of this order. The applicant shall not be entitled to any salary for the period of his unauthorised absence and subsequent period from the date of the impugned order to the date of his reinstatement pursuant to this order. No costs.



(K. M. Agarwal)
Chairman



(N. Sahu)
Member(A)

/as/